A.F.R.

18-09-2006

(53)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : **HON'BLE MR. S.R.NAYAK, C.J. AND HON'BLE MR. SATISH K. AGNIHOTRI, J.**

WRIT PETITION NO.5181 OF 2000

Petitioner : Smt. Nirmala Sidar, aged about 35 years, wife of Shri Vijay Kumar Sidar, by occupation-Service, Birhora Ashram School, Dharamjaigarh, District Raipur

versus

Respondents :

1. State of M.P. through the Secretary Tribal Welfare Department Bhopal
2. The Commissioner (Revenue) Bilaspur Division, Bilaspur
3. Collector Raigarh
4. The State Administrative Tribunal Through the Registrar, Jabalpur

---

Present : Mr. Rajesh Pandey, counsel for the petitioner.
Mr. Utkarsh Verma, Deputy Government Advocate for respondents No.1 to 3.

ORAL ORDER
(Passed on 18th of September, 2006)

The following order of the Court was passed by **S.R.Nayak, C.J.** :

The petitioner herein on the demise of one Gajraj, who was working as Assistant Teacher, made an application in the year 1995 claiming that she is a distant relative of the deceased and, therefore, she

was entitled to appointment on compassionate ground. Considering her application, the respondents – State authorities appointed her on 17-8-1995 on compassionate ground to the post of Assistant Teacher. Later on, on the ground that the petitioner is not a legal heir of the deceased Gajraj, by office order dated 13-12-1999, her appointment was terminated.

2. Feeling aggrieved by the above action, the petitioner instituted Original Application No.1759 of 2000 before the Madhya Pradesh Administrative Tribunal, Jabalpur (for short 'the Tribunal'). The Tribunal, on the ground that the petitioner made application for appointment after a lapse of 12 years of the demise of Gajraj and her initial appointment was entirely illegal and irregular, dismissed the application by its order dated 11-5-2000.

3. Feeling aggrieved by that order, this writ petition is filed under Articles 226/227 of the Constitution of India. Although learned counsel for the petitioner would passionately appeal to us that the petitioner was a foster daughter of late Gajraj and on the date of death of Gajraj, she was solely dependent upon the income of the deceased Gajraj and, therefore, mere delay in making application for compassionate appointment should not be a ground to reject her claim, which otherwise merits acceptance. Alternatively, it was contended that notwithstanding the considerable delay, the Government having exercised its discretion offered appointment in the year 1995 to the petitioner and, therefore, there was no justification after 4 years to terminate her appointment on the alleged ground that the petitioner is not a legal heir of the deceased Gajraj.

4. On the other hand, learned Deputy Government Advocate appearing for the respondents – State authorities, while supporting the impugned order of the Tribunal, would submit that there was fatal delay on the part of the petitioner in moving the application for appointment on compassionate ground; 12 years of delay was enormous delay and in the light of several judgments of the Supreme Court no relief could be granted to the petitioner.

5. Having heard learned counsel for the parties, the short question that arises for decision is whether the respondents – State authorities acted illegally and not justified in terminating the appointment of the petitioner offered to her earlier on compassionate ground, vide order dated 13-12-1999. At the threshold, it needs to be noticed that by departing from the mandate of Article 16(1) read with Article 14 of the Constitution of India, as a socio-economic measure, the provision to offer appointment on compassionate ground has been sustained by the Constitutional Courts in this country. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income. It is also well settled that the delay in making application for compassionate appointment is a weighty and good ground to deny compassionate appointment.

6. In ***Haryana State Electricity Board and another vs. Hakim Singh***[1], an employee died in harness leaving behind him a minor son. As per the compassionate appointment scheme, three years' limitation after attaining majority was prescribed. The minor son made an application beyond the stipulated time. The High Court's interpretation of the phrase "three years time for making such request in case of minors" as "in case of minors the period of three years would be applicable from the date he becomes major" was set aside by the Supreme Court on challenge. The Apex Court held that if the family members of the deceased employee can manage for 14 years after his death, one of his legal heirs cannot put-forward a claim as though it is line of succession by virtue of a right of inheritance. The whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member. In the premise of these principles governing appointments on compassionate ground, when we look at the facts of this case, we should say that no case is made out for our interference for exercising discretionary power under Article 226 of the Constitution of India. In this writ petition, the age of the petitioner is shown to be 35 years. The writ petition was filed in the year 2000 and Gajraj died on 9-12-1983, i.e., end of the year 1983. Undeniably, as on the date of the death of the deceased Gajraj, the petitioner was major. We are at a loss to understand why if the petitioner was really solely dependent on the income of the late Gajraj, slept over the matter without claiming appointment on compassionate ground for a long period of 12 years.

---

1 (1997) 8 SCC 85

Although the pleadings do not disclose when the petitioner married, that is to say, whether before or after the demise of the deceased Gajraj, learned counsel for the petitioner would submit, on our query, that she married after the demise of the deceased Gajraj. Looking from that angle also, a married woman, it could not be said, was dependent not on the income of the husband, but, was solely dependent on the income of very distant relative by 4-5 degrees from the common pedigree. That is also a circumstance which throws serious doubt about the genuineness of the claim of the petitioner.

7. Be that as it may, inordinate delay of 12 years, in our considered opinion and in the light of the judgments of the Supreme Court, is fatal to claim appointment on compassionate ground. In that view of the matter, we cannot take any exception to the impugned order. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge